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App. No. 10/090,889

NRN-001

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Natalie Rose NOEL

Serial No.: 10/090,889

Filed: Mar. 4, 2002

For: Breast Restraint for Athletic  
Activity

Art Unit: 3765

Examiner: Gloria M HALE

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**CERTIFICATE OF TRANSMISSION (37 CFR § 1.8)**I hereby certify that this correspondence is being facsimile  
transmitted to the United States Patent and Trademark  
Office, Fax No. (571) 273 -8300.

on June 9, 2006

Date By: Dane C. Butzer

Mail Stop Appeal Brief- Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450REPLY BRIEF

This paper is a Reply Brief filed under 37 C.F.R. § 41.41(a) in response to an

Examiner's Answer mailed May 4, 2006.

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1 ARGUMENT:

2 In the Examiner's Answer, Section (10) Response to Arguments includes the  
3 following:

4 It is the Examiner's position that the Stack and Hyman references clearly  
5 disclose and suggest the strap 14 of the figure 1 embodiment as claimed. The  
6 Stack strap 14 of the figure 1 embodiment fits across the tops of the person's  
7 breasts as claimed since the strap extends over the entire breasts including the  
8 tops as broadly claimed.  
9

10 In response, Applicants note that it is axiomatic that claim language be read in view  
11 of the specification, figures, and prosecution history. Applicants are clearly using the phrase "across  
12 tops of the person's breasts" to mean just that, across tops, not tops and bottoms, of a person's  
13 breasts. This usage is evident from Applicants' disclosure as well as from Applicants' subsequent  
14 arguments.

15 Applicants further note that claim 19 uses the transitional phrase "consisting  
16 essentially of." Use of this more limiting transitional phrase clearly precludes coverage of straps  
17 that extend over the entire breasts as shown in Stack.

18 Turning to the method claims, Applicants' maintain that the teachings of Stack,  
19 which are in a post-operative setting, should not be applied to a claimed use "during exercise."  
20 Applicants also note that the method claims are limited to use of a strap "across tops of the person's  
21 breasts." Again, this phrase is intended to mean just that, across tops, not tops and bottoms, of a  
22 person's breasts. Furthermore, method claim 21 also uses the more limiting transitional phrase  
23 "consisting essentially of," further limiting the claim to this use.

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1 CLOSING:

2 Applicants respectfully request that the Board overturn the rejections of the  
3 claims that are the subject matter of this Appeal. Applicants' undersigned attorney can be  
4 reached at (614) 205-3241. All correspondence should be directed to the address indicated  
5 below.

6

7

Respectfully submitted,



8

9 Dated: June 9, 2006

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10

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